



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG423

Endangered and Threatened Species: Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: NMFS has received an application for a new Enhancement of Survival Permit and a request for entry into an associated proposed Safe Harbor Agreement (Agreement) between the applicant and NMFS. The proposed Enhancement of Survival Permit and Agreement are intended to promote the survival and recovery of Central California Coast (CCC) Coho Salmon (*Oncorhynchus kisutch*) and CCC Steelhead (*O. mykiss*) listed as endangered and threatened, respectively, under the Endangered Species Act (ESA). Information NMFS received as a part of the application is available upon request by contacting the NMFS West Coast Region (WCR) at its California Coastal Office in Santa Rosa, California (see **FOR FURTHER INFORMATION CONTACT**).

DATES: Comments or requests for a public hearing on the action proposed in the application or related matters must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on [*INSERT date 30 days after the date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document and requests for a public hearing by any of the following methods. Please identify comments as relating to the “MacMurray Ranch Safe Harbor Agreement.”

Electronic Submissions: Submit all electronic comments via the Federal Rulemaking Portal. Go to [http:// www.regulations.gov/](http://www.regulations.gov/), click the “Comment Now!” icon, complete the required fields, and enter, or attach your comments.

Mail, Email, Fax: Submit written comments and requests for a public hearing to California Coastal Office, NMFS WCR, 777 Sonoma Avenue Room 325, Santa Rosa, CA 95404. Comments and requests may also be submitted via fax to 707-578-3435 or by email to WCRMacMurraySHA.comments@noaa.gov.

Instructions: Comments sent by any other methods, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personally identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Dan Wilson, Santa Rosa, CA, Telephone: 707-578-8555, Fax: 707-578-3435, email: WCRMacMurrayRanchSHA.comments@noaa.gov

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The proposed Enhancement of Survival Permit and Agreement are intended to promote the survival and recovery of endangered CCC Coho Salmon and threatened CCC Steelhead.

Authority

Enhancement of Survival Permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing ESA-listed fish and wildlife permits (50 CFR parts 222–227). NMFS issues permits based on findings that such permits: (1) were applied for in good faith; (2) if granted and exercised would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy set forth in section 2 of the ESA. The authority to take ESA-listed species is subject to conditions set forth in the permits.

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the ESA (16 U.S.C. 1531 *et seq.*). Safe Harbor Agreements, and the subsequent Enhancement of Survival Permits that are issued pursuant to section 10(a)(1)(A) of the ESA, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property-use restrictions as a result of their efforts to attract listed species to their property and increase the numbers or distribution of these species already on their property. Application requirements and issuance criteria for Enhancement of Survival Permits through Safe Harbor Agreements are found in 50 CFR 222.308(b), 222.308(c), and the Announcement of Final Safe Harbor Policy published on June 17, 1999 (64 FR 32717). These permits allow any necessary future incidental take of covered species above the mutually agreed-upon baseline conditions for those species in accordance with the terms and conditions of the permits and accompanying agreements.

An interested party may submit data, views, arguments, or a request for a hearing with respect to the action proposed in the application or related matters. Anyone requesting a hearing on a matter pursuant to this notice should set out the specific reasons why a hearing on that matter would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 22362

E & J. Gallo Winery, (Applicant) is requesting that NMFS issue it an Enhancement of Survival Permit and approve an associated proposed Agreement that it developed with NMFS. The Enhancement of Survival Permit will facilitate implementation of the Agreement that is expected to promote the recovery of CCC Coho Salmon and CCC Steelhead on non-Federal property within Porter Creek on the Applicant's MacMurray Ranch. Porter Creek is a tributary to the Russian River in Sonoma County, California. The proposed duration of the Agreement and the associated Enhancement of Survival Permit is three years. The proposed Enhancement of Survival Permit would authorize the incidental taking of CCC Coho Salmon and CCC Steelhead that may be associated with covered activities including beneficial management activities (*i.e.*, reservoir releases) and the return of the enrolled property to baseline conditions at the end of the Agreement, as defined in the Agreement. The Agreement specifies the beneficial management activities to be carried out on the enrolled property and the schedule for implementing those activities.

The Agreement requires that the Applicant maintain baseline condition for the covered species habitat on the enrolled property. NMFS has reviewed the baseline condition for the enrolled property as it is defined in the Agreement. The Agreement also contains a monitoring

component that requires the Applicant to ensure compliance with the terms and conditions of the Agreement, and that the baseline levels of habitat for the covered species occurs on the enrolled property. Results of the monitoring efforts will be provided to NMFS by the Applicant in an annual report for the duration of the three-year permit term.

Upon all parties' execution of this Agreement, and consistent with the NMFS' Safe Harbor Policy (64 FR 32717), NMFS will issue an Enhancement of Survival Permit to the Applicant. The Enhancement of Survival Permit will authorize the Applicant to take CCC Coho Salmon and CCC Steelhead incidental to the implementation of the covered activities specified in the Agreement, incidental to other lawful uses of the enrolled property, and to return to baseline conditions if desired at the end of the Agreement. In addition to meeting other criteria, actions to be performed under the Enhancement of Survival Permit must not jeopardize the existence of Federally listed species.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted to determine whether the application meets the applicable requirements of section 10(a) of the ESA and Federal regulations. NMFS' decision on whether to issue the permit will not be made until after the end of the 30-day comment period.

NMFS will publish notice of its final action in the **Federal Register**.

Dated: October 26, 2018.

Angela Somma, Chief,
Endangered Species Division,
Office of Protected Resources,
National Marine Fisheries Service.

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